

Montana Department of Natural Resources and Conservation
Water Resources Division
Water Rights Bureau

ENVIRONMENTAL ASSESSMENT
For Routine Actions with Limited Environmental Impact

Part I. Proposed Action Description

1. Applicant/Contact name and address: American Prairie Foundation
PO Box 908
Bozeman, MT 59771
2. Type of action: Application to Change an Existing Irrigation Water Right 40M 30073096
3. Water source name: Beaver Creek
4. Location affected by project: Sections 22, 24-28, Township 26N, Range 29E and Sections 18, 19, 29, 30, Township 26N, Range 30E, Phillips County.
5. Narrative summary of the proposed project, purpose, action to be taken, and benefits:

The Applicant is proposing a partial change in the purpose of eight existing Statement of Claim water rights from irrigation to instream flow protection. The Applicant intends to keep 150 acres of irrigation and the infrastructure required to put the water to beneficial use on the 150 acres, and remove 1,034 acres from irrigation in favor of protecting flow instream for fisheries purposes. The proposed continuance of irrigation will occur on 150 acres within the N2 Section 27, Township 26N, Range 29E, Phillips County, and the W2NW Section 26, Township 26N, Range 29E, Phillips County. Irrigation of the 150 acres will include the use of Hand #2 reservoir as a storage facility used to put the water to beneficial use. The method of irrigation will continue to be water spreading using dikes to spread water from the reservoir onto the irrigated acres. The proposed instream fishery use will be on an approximate 7 mile reach of Beaver Creek, which is identified as perennial on the USGS topographic maps. This reach coincides with the outlet of Hand #2 reservoir down to the most downstream point of the historic irrigation place of use. The legal land description of the proposed upper end of the protected reach is the NENENE Section 27, Township 26N, Range 29E, Phillips County, and the legal land description of the proposed lower end of the protected reach is NESWSE Section 18, Township 26N, Range 30E, Phillips County.

The DNRC shall issue a change authorization if an applicant proves the criteria in 85-2-402 MCA are met.

6. Agencies consulted during preparation of the Environmental Assessment:
Montana Department of Fish, Wildlife, & Parks (DFWP)
Montana Department of Environmental Quality (DEQ)

Part II. Environmental Review

1. Environmental Impact Checklist:

PHYSICAL ENVIRONMENT

WATER QUANTITY, QUALITY AND DISTRIBUTION

Water quantity - *Assess whether the source of supply is identified as a chronically or periodically dewatered stream by DFWP. Assess whether the proposed use will worsen the already dewatered condition.*

Determination: No significant impact

The source of supply is Beaver Creek which is a tributary to the Milk River. It has not been identified as a chronically or periodically dewatered stream by the Montana Department of Fish, Wildlife, & Parks (FWP); however the FWP instream flow reservation is often not met during the April-October irrigation season due to low or no flow. The proposed change will keep more water in the source to benefit the fishery.

Water quality - *Assess whether the stream is listed as water quality impaired or threatened by DEQ, and whether the proposed project will affect water quality.*

Determination: No significant impact

The reach of Beaver Creek impacted by the Applicant's proposed project is not listed as threatened by DEQ; it is listed as water quality impaired with the impairments being due to mercury and total phosphorus. This proposed project is unlikely to have an effect on water quality as the Applicant is proposing to remove 1,034 acres of irrigation and leave the water associated with the historic irrigation instream for the purpose of protecting the fishery.

Groundwater - *Assess if the proposed project impacts ground water quality or supply. If this is a groundwater appropriation, assess if it could impact adjacent surface water flows.*

Determination: N/A- proposed project involves surface water.

DIVERSION WORKS - *Assess whether the means of diversion, construction, and operation of the appropriation works of the proposed project will impact any of the following: channel impacts, flow modifications, barriers, riparian areas, dams, well construction.*

Determination: No significant impact

The means of diversion (dams) have already been installed. The Applicant is proposing to take out 5 dams and remove 1,034 acres from irrigation to leave water instream for fisheries purposes. Because multiple dams are being removed, there will be modifications in the flow regime, removal of barriers/dams, and likely beneficial riparian impacts to Beaver Creek within the proposed protected reach associated with authorization of the proposed change. These changes

have the potential to revert the area impacted to a more natural (un-manipulated) state. The Applicant may need to consult other federal, state, or local agencies for approval of the proposed changes and may need to secure a 310 permit which falls under the jurisdiction of the local conservation district.

UNIQUE, ENDANGERED, FRAGILE OR LIMITED ENVIRONMENTAL RESOURCES

Endangered and threatened species - Assess whether the proposed project will impact any threatened or endangered fish, wildlife, plants or aquatic species or any “species of special concern,” or create a barrier to the migration or movement of fish or wildlife. For groundwater, assess whether the proposed project, including impacts on adjacent surface flows, would impact any threatened or endangered species or “species of special concern.”

Determination: No significant impact

The Montana Natural Heritage Program identified a list of 16 animal species of concern within the township and ranges that the project is in. None of the animals are listed as “threatened” or “endangered” by the US Fish & Wildlife Service. No plant species were identified by the Montana Natural Heritage Program to potentially be in the project area. This project area has already been developed as agricultural land and the Applicant is proposing to remove 1,034 acres from irrigation in favor of leaving water instream for fisheries purposes. It is not anticipated that any of the species of concern will be impacted by the proposed project.

Black-tailed Prairie Dog	Little Brown Myotis	Baird’s Sparrow	Sprague’s Pipit
Great Blue Heron	Burrowing Owl	Chestnut-collared Longspur	Greater Sage-Grouse
Mountain Plover	Loggerhead Shrike	Long-billed Curlew	McCown’s Longspur
Sage Thrasher	Brewer’s Sparrow	Northern Redbelly Dace	Iowa Darter

Wetlands - Consult and assess whether the apparent wetland is a functional wetland (according to COE definitions), and whether the wetland resource would be impacted.

Determination: Impacts unknown

Multiple freshwater emergent wetlands were identified within the historic irrigation footprint. Under the Applicant’s proposed change, 1,034 acres will be removed from irrigation to keep water instream to benefit the fishery resource. This change will promote a more natural state of Beaver Creek through the Applicant’s property. The proposed changes may require a 410 permit from the Army Corp. of Engineers. Other federal, state, or local agencies may need to be consulted before changes are implemented.

Ponds - For ponds, consult and assess whether existing wildlife, waterfowl, or fisheries resources would be impacted.

Determination: Impacts unknown

There were no natural ponds identified within the project area. The Applicant is proposing to remove five man-made ponds from the natural creek channel. Removal of these ponds may require approval from other federal, state, or local agencies.

GEOLOGY/SOIL QUALITY, STABILITY AND MOISTURE - *Assess whether there will be degradation of soil quality, alteration of soil stability, or moisture content. Assess whether the soils are heavy in salts that could cause saline seep.*

Determination: No significant impact

The project area has already been developed as an agricultural field. The major soil type in the project area is Harlake-Havre clay loams (0-2% slope) which is identified as a farmland of statewide importance. It is a moderately well drained soil that is nonsaline to moderately saline (0-8 mmhos/cm) with high available water storage in its profile. The proposed change will remove 1,034 acres from irrigation in favor of leaving water instream to benefit the fishery resource. Leaving water instream will create more natural conditions on the source through the Applicant's property.

VEGETATION COVER, QUANTITY AND QUALITY/NOXIOUS WEEDS - *Assess impacts to existing vegetative cover. Assess whether the proposed project would result in the establishment or spread of noxious weeds.*

Determination: No significant impact

Noxious weed prevention will be the responsibility of the landowner. As the proposed change involves removing acres from irrigation, it is not anticipated that authorization of the proposed change will spread noxious weeds.

AIR QUALITY - *Assess whether there will be a deterioration of air quality or adverse effects on vegetation due to increased air pollutants.*

Determination: No significant impact

There will be no impact to air quality associated with issuance of a water use permit.

HISTORICAL AND ARCHEOLOGICAL SITES - *Assess whether there will be degradation of unique archeological or historical sites in the vicinity of the proposed project if it is on State or Federal Lands. If it is not on State or Federal Lands simply state NA-project not located on State or Federal Lands.*

Determination: N/A- Project not located on State or Federal Lands.

DEMANDS ON ENVIRONMENTAL RESOURCES OF LAND, WATER, AND ENERGY - *Assess any other impacts on environmental resources of land, water and energy not already addressed.*

Determination: No other potential impacts have been identified.

HUMAN ENVIRONMENT

LOCALLY ADOPTED ENVIRONMENTAL PLANS AND GOALS - *Assess whether the proposed project is inconsistent with any locally adopted environmental plans and goals.*

Determination: No known environmental plans or goals will be impacted by this project.

ACCESS TO AND QUALITY OF RECREATIONAL AND WILDERNESS ACTIVITIES - *Assess whether the proposed project will impact access to or the quality of recreational and wilderness activities.*

Determination: No access or recreational activities will be significantly impacted by this project.

HUMAN HEALTH - *Assess whether the proposed project impacts on human health.*

Determination: This proposed project will have no significant impact on human health.

PRIVATE PROPERTY - *Assess whether there are any government regulatory impacts on private property rights.*

Yes ___ No X *If yes, analyze any alternatives considered that could reduce, minimize, or eliminate the regulation of private property rights.*

Determination: No regulatory impacts are known.

OTHER HUMAN ENVIRONMENTAL ISSUES - *For routine actions of limited environmental impact, the following may be addressed in a checklist fashion.*

Impacts on:

- (a) Cultural uniqueness and diversity? No significant impacts identified
- (b) Local and state tax base and tax revenues? No significant impacts identified
- (c) Existing land uses? No significant impacts identified
- (d) Quantity and distribution of employment? No significant impacts identified
- (e) Distribution and density of population and housing? No significant impacts identified
- (f) Demands for government services? No significant impacts identified
- (g) Industrial and commercial activity? No significant impacts identified
- (h) Utilities? No significant impacts identified
- (i) Transportation? No significant impacts identified
- (j) Safety? No significant impacts identified

(k) Other appropriate social and economic circumstances? No significant impacts identified

2. Secondary and cumulative impacts on the physical environment and human population:

Secondary Impacts No significant impacts identified

Cumulative Impacts No significant impacts identified

3. Describe any mitigation/stipulation measures: None

4. Description and analysis of reasonable alternatives to the proposed action, including the no action alternative, if an alternative is reasonably available and prudent to consider:

The only alternative to the proposed action would be the no action alternative. The no action alternative would not authorize the Applicant to remove 1,034 acres from irrigation and leave the water associated with that historical irrigation instream for protection of the fishery resource.

PART III. Conclusion

1. Preferred Alternative

Issue a water use permit if the Applicant proves the criteria in 85-2-402 MCA are met.

2. Comments and Responses

None

3. Finding:

Yes___ No X Based on the significance criteria evaluated in this EA, is an EIS required?

If an EIS is not required, explain why the EA is the appropriate level of analysis for this proposed action:

No significant impacts related to the proposed project have been identified.

Name of person(s) responsible for preparation of EA:

Name: Nathaniel T. Ward

Title: Water Resource Specialist

Date: October 26, 2016